

sets forth rules relating to the election under section 614(c)(2) in the case of mines by means of which a taxpayer is permitted to treat a single operating mineral interest as more than one such interest for taxable years beginning after December 31, 1957. At the election of the taxpayer with respect to an operating unit, the rules contained in § 1.614-3 are also applicable to taxable years beginning before January 1, 1958, to which the Internal Revenue Code of 1954 applies. If the taxpayer makes such an election, the rules contained in § 1.614-2 are not applicable to any of the operating mineral interests which are part of the operating unit with respect to which the election described in § 1.614-3 is made. Section 1.614-5 sets forth the rules relating to the aggregation of nonoperating mineral interests. Section 1.614-6 contains the rules relating to basis, holding period, and abandonment and casualty losses where properties have been aggregated or combined. Section 1.614-7 relates to the extension of time for performing certain acts. Section 1.614-8 contains the rules relating to the elections under section 614(b) as amended by section 226(a) of the Revenue Act of 1964 to treat separate operating mineral interests in the case of oil and gas wells as separate properties or in combination for taxable years beginning after December 31, 1963.

[T.D. 6859, 30 FR 13699, Oct. 28, 1965]

#### § 1.614-1 Definition of property.

(a) *General rule.* (1) For purposes of subtitle A of the Code, in the case of mines, wells, and other natural deposits, the term *property* means each separate interest owned by the taxpayer in each mineral deposit in each separate tract or parcel of land.

(2) The term *interest* means an economic interest in a mineral deposit. See paragraph (b) of § 1.611-1. The term includes working or operating interests, royalties, overriding royalties, net profits interests, and, to the extent not treated as loans under section 636, production payments.

(3) The term *tract or parcel of land* is merely descriptive of the physical scope of the land to which the taxpayer's interest relates. It is not descriptive of the nature of his rights or

interests in the land. All contiguous areas (even though separately described) included in a single conveyance or grant or in separate conveyances or grants at the same time from the same owner constitute a single separate tract or parcel of land. Areas included in separate conveyances or grants (whether or not at the same time) from separate owners are separate tracts or parcels of land even though the areas described may be contiguous. If the taxpayer's rights or interests within the same tract or parcel of land are dissimilar, then each such dissimilar interest constitutes a separate property. If the taxpayer's rights or interests (whether or not dissimilar) within the same tract or parcel of land relate to more than one separate mineral deposit, then his interest with respect to each such separate deposit is a separate property.

(4) Upon the transfer of a *property* in any transaction in which the basis of such property in the hands of the transferee is determined by reference to the basis of such property in the hands of the transferor, such property shall, notwithstanding the provisions of subparagraph (3) of this paragraph, retain the same status and identity in the hands of the transferee as it had in the hands of the transferor. See paragraph (c) of § 1.614-6 if the transferor has made a binding election to treat a separate mineral interest as a separate property, to treat a separate mineral interest as more than one property under section 614(c), or to treat two or more separate mineral interests as an aggregated or combined property under section 614(b) (as it existed either before or after its amendment by section 226(a) of the Revenue Act of 1964), (c), or (e).

(5) The provisions of this paragraph may be illustrated by the following examples:

*Example 1.* A taxpayer owns one tract of land under which lie three separate and distinct seams of coal. Therefore, the taxpayer owns three separate mineral interests each of which constitutes a separate property.

*Example 2.* A taxpayer conducts mining operations on eight tracts of land as a single unit. He acquired his interests in each of the eight tracts from separate owners. Even if each tract of land contains part of the same mineral deposit, the taxpayer owns eight

separate mineral interests each of which constitutes a separate property.

*Example 3.* A taxpayer owns a tract of land under which lies one mineral deposit. The taxpayer operates a well on part of the tract and leases to another operator the mineral rights in the remainder retaining a royalty interest therein. The taxpayer thereafter owns two separate mineral interests each of which constitutes a separate property.

*Example 4.* In 1954, a taxpayer acquires from a single owner, in a single deed, three noncontiguous tracts of mineral land for a single consideration. Even if each tract contains part of the same mineral deposit, the taxpayer owns three separate mineral interests each of which constitutes a separate property.

*Example 5.* In 1954, taxpayer A simultaneously acquires in fee two contiguous tracts of mineral land from two separate owners. The same mineral deposit underlies both tracts. Thereafter, taxpayer A owns two separate mineral interests each of which constitutes a separate property.

*Example 6.* Assume that in 1955, taxpayer A, in example 5, leases the two contiguous tracts of mineral land that he acquired in 1954 to taxpayer B by means of a single lease. Thereafter, taxpayer B owns one mineral interest which constitutes a separate property for such time as the lease continues in existence.

*Example 7.* Assume that in 1955, taxpayer A, in example 5, sells at the same time all the mineral land he acquired in 1954 to taxpayer B. Thereafter, taxpayer B owns one mineral interest which constitutes a separate property. If taxpayer B acquires the mineral land in a transaction in which the basis of such mineral land in his hands is determined by reference to the basis of such mineral land in the hands of taxpayer A, then taxpayer B owns two separate mineral interests each of which constitutes a separate property.

*Example 8.* In 1954, taxpayer A simultaneously acquires two contiguous leasehold interests from two separate owners. The same mineral deposit underlies both tracts. Thereafter, taxpayer A owns two separate mineral interests each of which constitutes a separate property.

*Example 9.* In 1955, taxpayer A, in example 8, simultaneously assigns the two leases to taxpayer B. Thereafter, taxpayer B owns two separate mineral interests each of which constitutes a separate property.

(b) *Separation of interests treated as single property* under prior regulations. Each separate mineral interest which, in accordance with paragraph (a) of this section, is a separate property shall be so treated, notwithstanding the fact that the taxpayer under paragraph (i) of § 39.23(m)-1 of this chapter

(Regulations 118) and corresponding provisions of prior regulations may have treated more than one of such interests as a *single property*. The basis of each such separate property must be established by a reasonable method. See, however, section 614 (b) and (d) (as they existed prior to amendment by section 226 of the Revenue Act of 1964), section 614 (c) and (e), and §§ 1.614-2, 1.614-3, 1.614-4, and 1.614-5 for special rules relating to the treatment of two or more separate mineral interests as a single property.

(c) *Treatment of a waste bank or residue.* A waste bank or residue of prior mining, the extraction of ores or minerals from which is treated as mining under section 613(c)(3), shall not be considered to be a separate mineral deposit but is a part of the mineral deposit from which it was extracted. However, if the owner of such waste bank or residue has disposed of the deposit from which the waste bank or residue was accumulated, or if the waste bank or residue cannot practically be attributed to a particular deposit of the owner, the waste bank or residue will be regarded as a separate deposit.

[T.D. 6524, 26 FR 147, Jan. 10, 1961, as amended by T.D. 6859, 30 FR 13699, Oct. 28, 1965; T.D. 7261, 38 FR 5467, Mar. 1, 1973]

**§ 1.614-2 Election to aggregate separate operating mineral interests under section 614(b) prior to its amendment by Revenue Act of 1964.**

(a) *General rule.* (1) The provisions of this section relate to the election, under section 614(b) prior to its amendment by section 226(a) of the Revenue Act of 1964, to aggregate separate operating mineral interests, and, unless otherwise indicated, all references in this section to section 614(b) or any paragraph or subparagraph thereof are references to section 614(b) or a paragraph or subparagraph thereof as it existed prior to such amendment. Notwithstanding the preceding sentence, the definitions contained in paragraphs (b) and (c) of this section shall apply both before and after such amendment. All references in this section to section 614(d) are references to section 614(d) as it existed prior to its amendment by